

ISSUE

1. Are the properties under appeal exempt from property taxation because they were owned, occupied, and used for exempt purposes?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

JURISDICTIONAL FRAMEWORK

2. The Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; (3) property tax exemptions; (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

PROCEDURAL HISTORY

3. These appeals involve various properties that will be described herein.
4. Petitioner filed Forms 136 for 2012 and 2014. On September 11, 2014, the Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued its Form 120 Notices of Action on Exemption Application (“Form 120”) finding the subject properties to be 100% taxable for both years. On October 27, 2014, Petitioner filed Forms 132 for Review of Exemption with the Board.

HEARING FACTS AND OTHER MATTERS OF RECORD

5. On January 30, 2017, the Board’s Administrative Law Judge, Ellen Yuhan (“ALJ”), held a hearing on the petitions. Neither she nor the Board inspected the properties.¹
6. Antonio X. Alvarez, Director of Xavier Research Institute, was sworn and testified for Petitioner. Attorney Heather Scheel represented Respondent and Laura Mercado, Clerk of the Lake County Assessor’s Office, was sworn and testified for Respondent.
7. Petitioner submitted no exhibits.
8. Respondent submitted the following exhibits:

Respondent Exhibit 1:	Petitioner’s certificate of incorporation,
Respondent Exhibit 2:	Petitioner’s bylaws,
Respondent Exhibit 3:	Petitioner’s IRS 501(c)(3) letter,
Respondent Exhibit 4:	Petitioner’s 2013 990N and 2012 Schedule A,
Respondent Exhibit 5:	County inspection notes for 6040 Hohman Ave.,
Respondent Exhibit 6:	County inspection notes for 5516 Calumet Ave.,
Respondent Exhibit 7:	County inspection notes for 4508 Sheffield Ave.,
Respondent Exhibit 8:	County inspection notes for 4502 Sheffield Ave.,
Respondent Exhibit 9:	Property record cards (“PRCs”) for 2012 and 2014, ²
Respondent Rebuttal:	Information from findthecompany.com website.
9. The Board recognizes the following additional items as part of the record: (1) Forms 132 with attachments; (2) all motions filed by both parties; (3) all notices and orders issued by the Board; (4) a digital recording of the hearing; and (5) the hearing sign-in sheet.

PETITIONER’S CONTENTIONS

10. Petitioner is a tax-exempt non-profit corporation organized under the laws of Indiana as a “Mutual Benefit Corporation.” Petitioner also qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. Petitioner’s

¹ A hearing was originally scheduled for October 17, 2016. Petitioner failed to appear and the Board issued notice dismissing the appeals. Petitioner sought to vacate the dismissal. The Board granted Petitioner’s request and rescheduled the hearing.

² Parcel 45-02-25-326-005.000-023 was combined with 45-02-25-326-006.000-023 for 2013.

Bylaws state that the organization was established to provide business and management counseling, as well as low-cost workshops to small business entrepreneurs. *Alvarez testimony; Resp't Exs. R-1-R-3.*

Parcel 45-06-01-154-028.000-023 (6040 Hohman Ave.)

11. Petitioner purchased 6040 Hohman Ave. in 2011 at a tax sale. It contends the property had been vacant for a significant time and that the building had water and mold damage. It claims that approximately 18 months had passed before the property was in a suitable condition to rent. It further contends that it had to re-pave the parking lot and install handicapped-accessible bathrooms. Once that work had been completed, it contends that the city gave it the approval to locate its business there, and also provided the approval to rent to other businesses. *Alvarez testimony.*
12. Petitioner claims that 6040 Hohman Avenue had been approved to house an art museum or other organizations of similar nature. Petitioner also claims that it wished to combine a “business incubator” with various arts and marketing events, and that it invited various businesses to visit the area to potentially rent office space. Petitioner intended to target home-based businesses that prospectively needed space to meet with clients. *Alvarez testimony.*
13. Petitioner contends that it was difficult to identify businesses to relocate to this property because the City of Hammond had undertaken a similar project in the same area referred to as the “Hub.” It further contends that the city was able to offer the same services and was advertising those services at a lower price. *Alvarez testimony.*
14. Petitioner claims that at some point an automobile accident rendered another one of its buildings uninhabitable. Consequently, some tenants, as well as some supplies and other materials from that building, had to be moved to the 6040 Hohman Avenue address, which occupied space that was originally intended for the art gallery. There were also automobiles being stored in the rear parking lot of the property. Petitioner contends that that was a temporary situation and that its company operates an online auction store for

such vehicles. It claims that the vehicles in question had been sold and were merely being stored at that location until his customers could retrieve them. *Alvarez testimony; Resp't Ex. R-5.*

Parcel 45-02-36-481-023.000-023 (5516 Calumet Ave.)

15. Petitioner claims to have acquired this property at a tax sale with the idea of generating business activity in the surrounding neighborhood. Petitioner was renovating the property during the 2012 Christmas season. Soon after water and gas utilities had been restored and a new sign had been erected, an automobile crashed into the building and made it uninhabitable. *Alvarez testimony.*
16. Petitioner contends that when the accident happened, there were various leases in place. However, as a result of the accident, various tenants, as well as some personal property, had to be moved to 6040 Hohman Avenue as discussed above. *Alvarez testimony.*
17. Following the accident, Petitioner claims to have expended extensive resources in reconstructing the building. It contends the time and resources spent prevented any further prospective rental activity. Nonetheless, the city eventually condemned and demolished the building. *Alvarez testimony.*

Parcel 45-02-25-326-005.000-023 (4502 Sheffield Ave.)

18. Petitioner acquired this property in 2011. It is situated on a corner where the city had planned to construct a roundabout that was part of a project to widen Indiana State Road 312. Petitioner had originally intended to use the portion of the parcel not encumbered by the roundabout as a location for an art exhibit. However, according to Petitioner's own admission, as of 2012, there was nothing located on Petitioner's portion of the property. *Alvarez testimony.*

Parcel 45-023-25-326-006.000-023 (4508 Sheffield Ave.)

19. In 2014, this property consisted of a house, a garage, and was also part of 4502 Sheffield Avenue as described above. Petitioner claims that it was originally intended to be used as a business incubator. However, at the time of the original inspection, there was a tenant in the building which hindered Petitioner's plans. *Alvarez testimony.*

RESPONDENT'S CONTENTIONS

20. Respondent contends that Petitioner first filed applications for exemption in 2012 and that various numerous claims have been made such as charitable purpose, educational purpose, fraternal benefit purpose, and a purpose supportive of the fine arts. However, to date, Respondent contends that Petitioner has not provided any documentation or evidence to show that any of the properties described herein are predominantly used for any exempt purpose. *Scheel argument.*
21. Respondent contends that Petitioner's exempt status was revoked on May 15, 2013, and the organization was dissolved as of August 31, 2014.³ *Scheel argument; Resp't Rebuttal Ex.*
22. Respondent contends Petitioner reported no activity on its Forms 990 for 2012. Respondent also contends that Petitioner's most significant activities relate to small business and entrepreneur counseling rather than any charitable pursuits. *Scheel argument; Resp't Ex. R-4*

Parcel 45-06-01-154-028.000-023 (6040 Hohman Ave.)

23. Respondent contends that for 2012, when Petitioner filed the exemption application for this property, a site inspection was ordered so that the non-profit department of Lake County could make a recommendation to the PTABOA. Petitioner claimed the building

³ The administrative dissolution was actually effective as of January 1, 2016.

contained an art gallery and a museum showcasing artworks, a photo studio to develop artwork, business offices, and a cafeteria. Petitioner further claimed that its purpose was to promote and provide housing and financial support for activities in the fields of arts and sciences. Respondent claims that in 2013 the inspector found no art gallery or museum on the premises. *Mercado testimony; Resp't Ex. R-5.*

24. Respondent contends that for 2014, Petitioner claimed the property was being used as office space for small business incubator start-ups. On August 22, 2014, the inspector noted that only a small portion of the building was occupied. There was a building permit for plumbing on the front door and the rear parking lot looked as though it was being utilized for used car sales. Photographs show cars in the parking lot, and signs on the building indicate that the space was being leased to businesses in the auto sale industry. *Mercado testimony; Resp't Ex. R-5.*

Parcel 45-02-36-481-023.000-023 (5516 Calumet Ave.)

25. Respondent contends that the 2012 exemption application for this property was new and that a site inspection was requested to verify the usage of the building. The application stated that the building contained a gallery showcasing art works, a related studio, and two offices. Petitioner claimed the purpose was to promote and provide housing and financial support for activities in the fields of the arts and sciences. On the inspection date in September of 2013, the inspector noted that the building had been shut down by the City of Hammond. *Mercado testimony; Resp't Ex. R-6.*
26. For 2014, Petitioner claims that the property was being used as office space for small business incubator start-ups. Later that year, the inspector noted that the building had a no trespassing sign, which had apparently been placed by the City of Hammond. There seemed to be no tenants and no working utilities. *Mercado testimony; Resp't Ex. R-6.*
27. Respondent contends that the building was eventually demolished. Respondent claims that taxpayers are afforded three years to do something with such a vacant parcel,

however, in 2017 Petitioner had not made any improvements to the property. *Scheel argument.*

Parcel 45-02-25-326-005.000-023 (4502 Sheffield Ave.)

28. Respondent contends that this property was vacant in 2012. A site inspection was conducted in September of 2015 to verify that the property was still vacant. Again, as of 2017, Respondent claims nothing had been done to the property and it was therefore not entitled to exemption. *Scheel argument; Mercado testimony; Resp't Ex. 8.*

Parcel 45-023-25-326-006.000-023 (4508 Sheffield Ave.)

29. Respondent contends that Petitioner's 2014 exemption application stated that this property was also being used as office space for small business incubator start-ups. An inspection was requested to verify the usage of the building and whether or not it was occupied and had utilities. On the date of inspection in 2014, the inspector noted that the property was an occupied single-family residence with a portable swimming pool in the back yard. *Mercado testimony; Resp't Ex. 7.*

ANALYSIS

A. Basis for Exemption and Burden of Proof

30. While all tangible property is generally subject to taxation, the legislature may exempt property used for municipal, educational, literary, scientific, religious, or charitable purposes. Ind. Const. Art. 10, § 1; Ind. Code § 6-1-1-2-1. Because property tax exemption relieves property from bearing its fair share of the cost of government services, exemptions are to be strictly construed against the taxpayer and in favor of the State. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004) (citation omitted), *review denied*. The taxpayer therefore always bears the burden of proving that it is entitled to the exemption it seeks. *State Bd.*

Of Tax Comm'rs v. New Castle Lodge #147, Loyal Order of the Moose, Inc., 765 N.E.2d 1257, 1259 (Ind. 2002).

31. For each assessment year, the exemption is based on the use of the property during “the year that ends on the assessment date of the property.” Ind. Code § 6-1.1-11-3(c)(5). A taxpayer “must demonstrate that its property was owned, occupied, and predominately used for [an exempt] purpose during the relevant tax year (i.e., ‘the year that ends on the assessment date of the property’).” *Bros. of Holy Cross, Inc. v. St. Joseph County Prop. Tax Assessment Board of Appeals*, 878 N.E.2d 548, 550 (Ind. Tax Ct. 2007). Furthermore, the Petitioner must prove that the building is predominately used for educational purposes more than 50% of the time. *New Castle Lodge #147 v. State Bd. of Tax Comm'rs*, 733 N.E.2d 36, 39 (Ind. Tax Ct. 2000), *affirmed by State Bd. of Tax Comm'rs v. New Castle Lodge # 147, Loyal Order of Moose, Inc.*, 765 N.E.2d 1257 (Ind. 2002).
32. For 2012, Petitioner seeks exemption under three statutes: Ind. Code §6-1.1-10-16, which, among other things, addresses property owned, used, and occupied for educational purposes; Ind. Code §6-1.1-10-18, which addresses property supporting fine arts; and Ind. Code §6-1.1-10-23, which addresses property owned by a fraternal benefit associations.
33. For 2014, Petitioner seeks exemption under Ind. Code §6-1.1-10-16 for educational and charitable purposes and Ind. Code §6-1.1-10-23, the fraternal benefit association exemption.

B. Educational Purpose Exemption

35. All or part of a building owned, occupied, and used educational, literary, scientific, religious, or charitable purposes is exempt from taxation. *See* Ind. Code § 6-1.1-10-16(a); Ind. Code § 6-1.1-10-36; *Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Assessor*, 914 N.E.2d 13, 14 (Ind. Tax Ct. 2009). That exemption extends to the

land on which the building is situated and to personal property owned and used in such a manner that it would be exempt if it were a building. Ind. Code §6-1.1-10-16(c) and (e). Property is predominately used or occupied for exempt purposes if it is used or occupied for those purposes more than 50% of the time that is used or occupied in the year that ends on the assessment date. Ind. Code § 6-1.1-10-36.3(a).

36. Exemptions from property tax are generally granted based on the expectation that the public will derive a corresponding benefit that justifies the loss of tax revenue. Accordingly, applicants for the educational exemption must show their use of the property provides some public benefit. See *Oaken Bucket*, 938 N.E.2d at 657; *Dep't of Local Gov't Finance v. Roller Skating Rink Operators Ass'n*, 853 N.E.2d 1262, 1266 (Ind. 2006); *Indianapolis Osteopathic Hospital, Inc.*, 818 N.E.2d at 1014; *Foursquare Tabernacle Church of God in Christ*, 550 N.E.2d 850, at 854; *Ft. Wayne Sports Club*, 258 N.E.2d at 881. Examining “the public benefits that accrue from a property’s use [is] a method of determining whether the predominant use of a property is educational.” *Trinity School of Natural Health, Inc. v. Kosciusko Co. Property Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234, 1237 (Ind. Tax Ct. 2003). “If a property owner’s use of property does not serve the public good, the property is taxable.” *Roller Skating Rink Operators Ass'n*, 853 N.E.2d at 1265 (citing *Travelers' Ins. Co. v. Kent*, 50 N.E. 562, 564 (Ind. 1898)).
37. Educational use does not require providing educational programs or classes that are identical to those of tax-supported institutions. The public benefit test can be met by providing courses found in tax-supported institutions, but it also can be met by providing “related” programs and courses. Accordingly, “a taxpayer need only relieve the State’s burden ‘to some limited extent’ with programs and courses merely ‘related’ to those found in tax-supported schools.” *Trinity School*, 799 N.E.2d at 1238 (italics in original); see also *Roller Skating Rink Operators Ass'n*, 853 N.E.2d at 1266 (stating that “educational” programs need not be the same as offerings of public schools).
38. The educational use must confer a public benefit. The closer the activity is to traditional

educational programs offered in public schools, the more obvious is the public benefit. *Prof'l Photographers of Am., Inc., v. St. Bd. of Tax Comm'rs*, 148 Ind. App. at 601, 268 N.E.2d 617 (1971); *Ft. Wayne Sport Club*, 258 N.E.2d at 874. "An educational exemption is available to taxpayers who provide instruction and training equivalent to that provided by tax supported institutions of higher learning and public schools because to the extent such offerings are utilized, the state is relieved of its financial obligation to furnish such instruction." *Miniature Enthusiasts*, 671 N.E.2d at 221 (quoting *Ft. Wayne Sport Club*, 258 N.E.2d 874, 881-882).

Parcel 45-06-01-154-028.000-023 (6040 Hohman Ave.)

39. Petitioner presented no evidence to show that educational classes were held at this property at any time in 2012 or 2014. Petitioner presented no evidence to show the predominant use of the building. Petitioner failed to show it was entitled to an educational exemption for this building.

Parcel 45-02-36-481-023.000-023 (5516 Calumet Ave.)

40. According to the testimony, 5516 Calumet was being renovated at the end of 2012. The property was not occupied in 2012 and, in January 2013, the property was rendered uninhabitable due to a car crash. This property was never used or occupied for any educational purpose for the 2012 or 2014 assessment years.

Parcel 45-02-25-326-005.000-023 (4502 Sheffield Ave.)

41. According to Mr. Alvarez, 4502 Sheffield was a vacant lot in 2012. Petitioner failed to show that the lot was used for any educational purpose.

C. Fine Arts Exemption

42. Another applicable statutory provision governing this exemption claim includes the following:

(a) Tangible property is exempt from property taxation if it is owned by an Indiana not-for-profit corporation which is organized and operated for the primary purpose of coordinating, promoting, encouraging, housing, or providing financial support to activities in the field of fine arts.

(b) For purposes of this section, the field of fine arts includes, but is not limited to, the following art forms;

- (1) Classical, semi-classical, or modern instrumental and vocal music;
- (2) Classical dance, including ballet, modern adaptations of formal dance, and ethnic dance;
- (3) Painting, drawing, and the graphic arts;
- (4) Sculpture;
- (5) Architecture;
- (6) Drama and musical theater.

Ind. Code § 6-1.1-10-18.

43. On the 2012 petitions, Petitioner identified the property under “Fine Art Exemption” as vacant land, although two of the properties are improved. The Form 132 also states that the property will be a place where young artists can develop their craft, free art classes will be offered, and artists will learn to market their artwork.

44. Petitioner’s Bylaws show that XRI was not organized or operated for the primary purpose of coordinating, promoting, encouraging, housing, or providing financial support to activities in the field of fine arts. XRI was established to provide free business counseling, management counseling, and low cost workshops to small business entrepreneurs. Its purpose was to facilitate small business owners with the growth and prosperity of their existing businesses within the Northwest Indiana and Chicagoland area.

Parcel 45-06-01-154-028.000-023 (6040 Hohman Ave.)

45. With regard to this property, Petitioner's application for exemption shows that the first floor of the building would have an art gallery, photo studio, and museum. Further, the property would purportedly be used as a place for members and audiences to coordinate, promote, encourage, and provide financial support to activities in the field of the arts and sciences. Petitioner failed to present any evidence showing that these events occurred. In fact, according to the site inspection, in 2013 there was no art gallery, photo studio, or museum. Petitioner failed to show it qualified for an exemption under the fine arts exemption statute.

Parcel 45-02-36-481-023.000-023 (5516 Calumet Ave.)

46. On the application for this property, Petitioner cited the same exempt purposes that were cited for 6040 Hohman Avenue. This property was originally designated to have a first floor art gallery and a second floor studio with two offices. According to Petitioner's witness, the property was being renovated at the end of 2012 and was rendered uninhabitable in January 2013. Petitioner failed to show the property was used in support of the fine arts and, so, is not entitled to the exemption.

Parcel 45-02-25-326-005.000-023 (4502 Sheffield Ave.)

47. For this parcel, Petitioner again cited the same exempt purposes. This property is vacant land and there is no evidence the property was used for an outdoor display area. Petitioner failed to present any evidence to support a claim for a fine arts exemption for this property.

D. Fraternal Benefit Association

48. Petitioner also claims an exemption based on Ind. Code §6-1.1-10-23(a). That statute provides that "tangible property is exempt from property taxation if it is owned by a fraternal beneficiary association which is incorporated, organized, or licensed under the laws of this

state.” Ind. Code §6-1.1-10-23(a).

49. While Ind. Code §6-1.1-10-23 does not define the term “fraternal beneficiary association,” at least one case has defined the term in interpreting the predecessor statute to Ind. Code §6-1.1-10-23. *See State Bd. of Tax Comm’rs v. Fort Wayne Sports Club, Inc.*, 258 N.E.2d 874, 880(Ind. Ct. App. 1970). In *Fort Wayne Sports Club*, the court explained that the term “fraternal beneficiary association” has a “very limited and definitive meaning.” *Id.* The court interpreted the term as indicating any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit and having a lodge system and representative form of government, and which shall make provision for the payment of [death] benefits in accordance with this act. *Fort Wayne Sports Club*, 258 N.E.2d at 880 (quoting Ind. Stat. Anno. §39-4401(b)).
50. In many ways, the previous definition of “fraternal beneficiary association” mirrors the language currently found in its successor statute, Ind.Code § 27-11-1-1, which provides that

This article applies to any incorporated society, order, or supreme lodge without capital stock, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not-for-profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and that provides benefits in accordance with this article.

Although Ind. Code § 27-11 now refers to those organizations as “fraternal benefit societies,” the legislative intent behind Ind. Code §6-1.1-10-23 appears to have been to provide an exemption to fraternal organizations covered by the Indiana insurance laws. That remains true despite the slight difference in terminology between Ind. Code §27-11 and its predecessor statutes.

51. On the Form 132 petitions for both 2012 and 2014, Petitioner stated that it does not have a lodge system or provision for the payment of death benefits but planned to establish that in the next six months. Petitioner did not qualify for this exemption at the time of the applications and it is apparent from the passage of time between the applications that

Petitioner has not made an attempt to fulfill these requirements. Petitioner failed to prove it was entitled to the fraternal benefit association exemption.

E. Charitable Purpose Exemption (2014 Only)

52. For 2014, Petitioner claimed a charitable exemption for 6040 Hohman Avenue, 5516 Calumet Avenue, and 4508 Sheffield Avenue.
53. To prove a property is used for charitable purposes, a taxpayer must demonstrate that (1) through its use of the property, there is “evidence of relief of human want...manifested by obviously charitable acts different from the everyday purposes and activities of man in general,” and that (2) the use provides a present benefit to the general public sufficient to justify the loss of revenue. *Indianapolis Elks Bldg. Corp. v State Bd. Of Tax Comm’rs*, 145 Ind. App. 522, 251 N.E.2d, 673,683 (Ind. App.1969); *Foursquare Tabernacle Church of God in Christ v. State Bd. Of Tax Comm’rs*, 550 N.E. 850, 854 (Ind. Tax Ct. 1990) (citation withheld).

Parcel 45-06-01-154-028.000-023 (6040 Hohman Ave.)

54. For this property, Petitioner presents two different reasons for its claim for a charitable exemption. On its exemption application, Petitioner contends the property will be used as a place for people to coordinate, promote, encourage, house, and provide financial support to activities in the field of entrepreneurial development for small business startups. The property will also provide a place to brainstorm marketing ideas. On the Form 132, Petitioner contends it will be providing free art classes and free programs whereby artists can learn how to market their artwork.
55. Petitioner did not explain how supporting entrepreneurial development qualified as a charitable purpose. There is no relief of human want nor is there a present benefit to the general public. Further, even if such a purpose were to be considered charitable, Petitioner did not present any evidence to support that any of the claimed activities took

place at this facility. There was no documentation provided to show what businesses used the facility and how much of the facility was used.

56. As to Petitioner's claim that free art classes and free programs would be offered, again, Petitioner presented no evidence to show what, if any classes, were offered at this facility. Petitioner failed to establish it was entitled to an exemption for charitable purposes.

Parcel 45-02-36-481-023.000-023 (5516 Calumet Ave.)

57. Petitioner cited the same reasons that this property qualified for a charitable exemption as it did for 6040 Hohman Avenue. In this case, however, besides the aforementioned deficiencies, this property had been boarded up by the City of Hammond in January of 2013. The evidence showed the building was still unoccupied in 2014. There were no tenants at this property and no working utilities.

Parcel 45-023-25-326-006.000-023 (4508 Sheffield Ave.)

58. Petitioner, again, presented the same reasons that this property should qualify for a charitable exemption. Petitioner's witness testified this property was a single-family home that was rented at the time of the inspection in 2014. Petitioner claims he was waiting to see if the City of Hammond was going to acquire the property before he invested more money in the property.
59. While Petitioner may have had the intention to use this for business incubator startups, Petitioner did not prove that was a charitable purpose. Further, the evidence showed that even if that were a charitable purpose, at the time of application, Petitioner was renting the property as a single-family home. Consequently, Petitioner failed to show it was entitled to a charitable exemption for this property.

60. For any of the years at issue, Petitioner failed to show that its properties were exempt from property taxation under any relevant statute.
61. Where a petitioner has not supported its claim with probative evidence, the respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

SUMMARY OF FINAL DETERMINATION

62. The Board finds in favor of Respondent and holds that Petitioner's real property is 100% taxable for all years at issue.

This Final Determination of the above captioned matter is issued on the date first written above.

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.